

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Charleston Aluminum, LLC,	)	C/A No.: 3:10-1140-JFA
	)	
Plaintiff,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
Commercial Metals Company d/b/a/	)	
CMC Commonwealth Metals,	)	
	)	
Defendant.	)	
	)	

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This matter comes before the court on the defendant's motion to dismiss claims three, four, and five of plaintiff's complaint. (ECF No. 9.) The parties fully briefed the motion, and in its response, plaintiff abandoned claims three and five. The court heard argument on claim four, alleging unfair trade practices, at a hearing held August 4, 2010. At the conclusion of the August 4 hearing, the court, on its own initiative, asked the parties about the applicability of Haley Nursery Co. v. Forrest, 381 S.E.2d 906 (S.C. 1989), to the facts at hand, as the facts in that case and the facts alleged in the complaint both allege misrepresentations by an intermediary concerning the attributes of goods. In response, the parties indicated some desire to read and brief the case before responding to the court's question. Accordingly, the court invites the parties to each submit a brief of no more than five pages on or before August 11, 2010—no response or reply will be allowed at this time—to address the applicability of Haley Nursery to the matter at bar.

IT IS SO ORDERED.

August 4, 2010  
Columbia, South Carolina

*Joseph F. Anderson, Jr.*

Joseph F. Anderson, Jr.  
United States District Judge